

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2003-000632-001 DT

02/27/2004

HONORABLE MICHAEL D. JONES

CLERK OF THE COURT  
P. M. Espinoza  
Deputy

FILED: \_\_\_\_\_

STATE OF ARIZONA

JAMES D NEUGEBAUER

v.

TONY ZIGROSSI (001)

GREGORY SHAW WILLIAMS

REMAND DESK-LCA-CCC  
SCOTTSDALE CITY COURT

RECORD APPEAL RULE / REMAND

SCOTTSDALE CITY COURT

Cit. No. #00362502

Charge: 1) SPEED/REASONABLE AND PRUDENT

DOB: 02/03/45

DOC: 01/16/03

This Court has jurisdiction of this appeal pursuant to the Arizona Constitution Article VI, Section 16, and A.R.S. Section 12-124(A).

This matter has been under advisement and the Court has considered and reviewed the record of the proceedings from the trial court, exhibits made of record and the memoranda submitted.

The only issues raised by the Appellant concern the sufficiency of the evidence to warrant the conviction and finding of responsibility. When reviewing the sufficiency of the evidence, an appellate court must not re-weigh the evidence to determine if it would reach the

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2003-000632-001 DT

02/27/2004

same conclusion as the original trier of fact.<sup>1</sup> All evidence will be viewed in a light most favorable to sustaining a conviction and all reasonable inferences will be resolved against the Defendant.<sup>2</sup> If conflicts in evidence exists, the appellate court must resolve such conflicts in favor of sustaining the verdict and against the Defendant.<sup>3</sup> An appellate court shall afford great weight to the trial court's assessment of witnesses' credibility and should not reverse the trial court's weighing of evidence absent clear error.<sup>4</sup> When the sufficiency of evidence to support a judgment is questioned on appeal, an appellate court will examine the record only to determine whether substantial evidence exists to support the action of the lower court.<sup>5</sup> The Arizona Supreme Court has explained in State v. Tison<sup>6</sup> that "substantial evidence" means:

More than a scintilla and is such proof as a reasonable mind would employ to support the conclusion reached. It is of a character which would convince an unprejudiced thinking mind of the truth of the fact to which the evidence is directed. If reasonable men may fairly differ as to whether certain evidence establishes a fact in issue, then such evidence must be considered as substantial.<sup>7</sup>

This Court finds that the trial court's determination was not clearly erroneous and was supported by substantial evidence.

IT IS ORDERED affirming the judgment of responsibility and sanctions imposed.

IT IS FURTHER ORDERED remanding this matter back to the Scottsdale City Court for all further and future proceedings in this case.

/ s / HONORABLE MICHAEL D. JONES

---

JUDICIAL OFFICER OF THE SUPERIOR COURT

---

<sup>1</sup> State v. Guerra, 161 Ariz. 289, 778 P.2d 1185 (1989); State v. Mincey, 141 Ariz. 425, 687 P.2d 1180, cert.denied, 469 U.S. 1040, 105 S.Ct. 521, 83 L.Ed.2d 409 (1984); State v. Brown, 125 Ariz. 160, 608 P.2d 299 (1980); Hollis v. Industrial Commission, 94 Ariz. 113, 382 P.2d 226 (1963).

<sup>2</sup> State v. Guerra, supra; State v. Tison, 129 Ariz. 546, 633 P.2d 355 (1981), cert.denied, 459 U.S. 882, 103 S.Ct. 180, 74 L.Ed.2d 147 (1982).

<sup>3</sup> State v. Guerra, supra; State v. Girdler, 138 Ariz. 482, 675 P.2d 1301 (1983), cert.denied, 467 U.S. 1244, 104 S.Ct. 3519, 82 L.Ed.2d 826 (1984).

<sup>4</sup> In re: Estate of Shumway, 197 Ariz. 57, 3 P.3<sup>rd</sup> 977, review granted in part, opinion vacated in part 9 P.3<sup>rd</sup> 1062; Ryder v. Leach, 3 Ariz. 129, 77P. 490 (1889).

<sup>5</sup> Hutcherson v. City of Phoenix, 192 Ariz. 51, 961 P.2d 449 (1998); State v. Guerra, supra; State ex rel. Herman v. Schaffer, 110 Ariz. 91, 515 P.2d 593 (1973).

<sup>6</sup> Supra.

<sup>7</sup> Id. At 553, 633 P.2d at 362.